BEFORE THE WAITANGI TRIBUNAL **WAI 3327**

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND Te Reo in the Public Sector Urgent Inquiry

BRIEF OF EVIDENCE OF TUKOROIRANGI BEN MAATIAHA-MORGAN

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INTRODUCTION

1. My name is Tukoroirangi Ben Maatiaha-Morgan. My iwi is Waikato. My river is Waikato. I am from Ngaati Makirangi, Ngaati Mahuta and Ngaati Maahanga.

2. I have been a representative of my marae, Te Hoe o Tainui on Te Whakakitenga, the tribal Parliament of Waikato, and also Chairperson of Te Arataura, the Executive of Waikato-Tainui.

3. I have undertaken supporting roles in many activities of Waikato-Tainui for more than 30 years:

   (a) As a Co-Negotiator for the settlement of the claims related to Waikato River.

   (b) As a Co-Chairperson of the Waikato River Authority from the year 2010 to the year 2019.

   (c) As a director of Tainui Group Holdings Limited from the year 2015 to the year 2017. This is the company that manages the commercial assets of the broader iwi.

4. I also stood as a Member of the Parliament of New Zealand from the year 1996 until the year 1999.

THE SCOPE OF THIS EVIDENCE

5. I provide this evidence in support of the Wai 3327 urgent inquiry into use of te Reo in the Public Sector. Waikato-Tainui is participating as an interested party noting that it has proceedings underway in the High Court seeking declarations of the rights and interests of Waikato-Tainui and the corresponding obligations and duties of the Crown in respect of those rights.

6. This evidence and that provided by Stanley Rahui Papa is intended to assist the claimants and Tribunal in the inquiry within the scope of Waikato-Tainui's participation. It is largely concentrated on the commitments to revitalisation of te reo in

accordance with Waikato-Tainui's settlements and agreements with the Crown.

7. The evidence of Stanley Rahui Papa sets out:

   (a) aspects of the history of Waikato-Tainui, including the Kiingitanga so that our origins and our tribal boundaries can be understood; and

   (b) Maaori language revitalisation undertaken by Waikato-Tainui.

   (c) The ways in which the Maaori language is diminished by the commitments made in the coalition agreements of the Crown and how they are being implemented.

8. The key matter covered in this evidence is the settlement of the claims of Waikato.

Waikato land confiscations

9. During the time of King Taawhiao (1860 – 1894), the son of King Pootatau, the land confiscations occurred. Before the Waikato land wars, Governor Grey and King Pootatau were longstanding friends. Over time, Governor Grey misunderstood that the purpose of the Kiingitanga was to challenge the authority of Queen Victoria, and he was eventually minded to disestablish the Kiingitanga.

10. The proclamation of Governor Grey was released on 11 July 1893 that if the leaders of Waikato did not accede to the authority of the Queen of England, they would be banished from the Mangataawhiri. After a time, the Crown's soldiers crossed the aukati line, and the Waikato wars commenced.

11. The first battle occurred at Meremere, then Rangiriri, Rangiaowhia and then to Ooraakau near the current township of Kihikihi. There are many stories that relate to these battles, but ultimately when they were concluded by 1865 1.2 million

acres of land was eventually confiscated under the New Zealand Settlements Act 1863.

12. The major outcome of the confiscation was the taking of land firstly, secondly the psychological destruction that occurred to those affected and successive generations. What resulted was the decline of te reo Maaori and tikanga to be subservient to Paakehaa ways.

An emergence

13. Despite the land confiscations, the Kiingitanga did not simply go into decline. Mana motuhake was still pursued. The Kiingitanga established a parliament called Te Kauwhanganui. Te Kauwhanganui passed its own laws. A newspaper was established under the authority of the Kiingitanga, called Te Paki o Matariki. A bank was established, called 'The Bank of Aotearoa'.

14. The Kiingitanga undertakes a range of activities to conciliate and support iwi around the country. All of these initiatives are designed to increase wellbeing, including related to Maaori language. These initiatives occurred despite the ongoing grievance of land confiscation that is still felt by Waikato-Tainui.

The Wai 30 claim

15. On 15 May 1987, Sir Robert Mahuta filed on behalf of the Tainui Maaori Trust Board and Ngaa Marae Toopuu a claim known as Wai 30, to the Waitangi Tribunal. Ngaa Marae Toopuu is a congregation of marae who support the tikanga of the Kiingitanga, and discuss and debate the major issues of the day.

16. The focus of Wai 30 was the breaches by the Crown of the Treaty of Waitangi that occurred by the confiscations from 1865. In our view, it was not simply confiscation of land but subjugation of Maaori identity and Maaori language.

17. Sir Robert Mahuta was also instrumental because he progressed research for the Te Kotahi Research Institute. One of the major research focusses was the establishment of Koohanga Reo. He also progressed the establishment of the Kura Kaupapa of Raakaumangamanga.

The Raupatu Settlement

18. Because of the strong pursuit by the leaders of that time, the likes of Sir Bob Mahuta, the members of the Tainui Maaori Trust Board and Ngaa Marae Toopuu, the claims related to Waikato raupatu were settled. When the raupatu claims were settled, the principle of collaboration and partnership with the Crown was important. The Heads of Agreement reflected a focus on collaboration.

19. One important aspect of the Deed of Settlement was the formal apology made by the Crown that acknowledged the detrimental impact, the oppressive policies and historic actions throughout the generations.

20. It is accepted that this was a settlement for land confiscation. However, in our view you cannot separate land from identity, nor land from Maaori language. And so, the preamble of the settlement reads:[1]

> "The war caused a loss of life among Waikato Iwi and the effect of the raupatu both immediately and over time ***has had a crippling impact on the welfare, economy and development of Waikato-Tainui***".

21. Additionally, the Crown apology reads:[2]

> "The Crown expresses its profound regret and apologises unreservedly…at ***the devastation of property and social life*** which resulted".

[1] Preamble of the Deed of Settlement dated 15 May 1995, paragraph G.
[2] Deed of Settlement, Apology section, clause 3(3).

22. And also, the following text:[3]

> "The Crown acknowledges that the subsequent confiscations of land and resources…were wrongful…and have had ***a crippling impact on the welfare, economy and development of Waikato***".

23. The Waikato Raupatu Lands Trust emerged from the settlement. According to the Deed Creating the Waikato Raupatu Lands Trust, the objectives of the Trust include to support the revitalisation of Maaori language including:

(a) "teaching, speaking and preservation of the Maaori language" (Schedule 1, clause (a))

(b) "teaching of, research into and the publication of books and papers in the language, customs, traditions, geneaology and history of Maaori" (Schedule 1, clause (b));

(c) "the encouragement and teaching and the preservation of Maaori arts and crafts…Maaori songs and chants, including in particular those of Waikato-Tainui" (Schedule 1, clause (d)(v));

(d) "making grants to any member of Waikato-Tainui…in respect of any matter relating to the language, customs traditions and history of Waikato-Tainui" (Schedule 1, clause (e)). Financial grants are distributed every year to members to support their language learning.

24. Our view is that the settlement and its enabling legislation, the Waikato Raupatu Claims Settlement Act 1995, signified a new beginning between the Crown and Waikato-Tainui which is enshrined in clause 6(6):

> "…the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now

[3] Deed of Settlement, Apology section, clause 3(3).

possible, and…to begin the process of healing and to enter a new age of co-operation with the Kiingitanga and Waikato".

The Kiingitanga Accord

25. On 22 August 2008 the Kiingitanga Accord was signed to cement the claims settlement of Waikato-Tainui. A copy of the Kiingitanga Accord is annexed.

26. Clause 1.1 of the Kiingitanga Accord provides:

> "The purpose of this Kiingitanga Accord is to:
>
> (a) oversee and protect the integrity of the agreements set out in the deed of settlement and the settlement legislation;
>
> (d) provide a framework for an enhanced relationship between the Crown and Waikato-Tainui that protects the integrity of the settlement…"

The Waikato River Settlement

27. In the year 2010, the claims in respect of the Waikato River were settled. Lady Raiha Mahuta and I progressed the settlement, and engaged with the Minister the late Hon Michael Cullen to achieve the settlement in relation to the river.

28. One aspect of the settlement was the ongoing partnership with the Crown, for example:

> 2.113 The settlement aims to enhance the relationship between the Crown and Waikato-Tainui and to restore the honour of the Crown.
>
> 2.114 The Crown and Waikato-Tainui share a commitment to act:
>
> 2.114.1 to protect the integrity of the settlement; and

2.114.2 in a manner that is consistent with and achieves co-management of the Waikato River.

29. As a result of the settlement, $20 million was granted to the Waikato Endowed Colleges in Hopuhopu. There are three aspects to the research programme of the College; a programme dedicated to the legacy of Te Atairangikaahu, one to Te Puea Heerangi and one to Sir Robert Mahuta. The programme related to Te Puea relates to the revitalisation of te reo, carving, weaving and also wellbeing.

30. This settlement also contains aspects of Maaori language as well. If the river is well, the language of the river is well. For example, the word 'rauiri'. 'Rauiri' is a type of barrier like a fence network. It is used in the river, to guide the direction of eels in the river to be caught, an eventually eaten. These days, people are only aware of the word 'hiinaki'.

Tukoroirangi Morgan